first impression—it would lead to consequences that never were contemplated. It would follow that every sentence pronounced by the Court of Queen's Bench would be subject to be reviewed summarily by a judge at chambers."

In *Re Francis Robert Newton*, 16 C.B. 97, where the prisoner was convicted of wounding at the Central Criminal Court, application was made for a writ of *habeas corpus* on the ground that the offence charged was committed in a place outside the jurisdiction of that Court. Again the Court refused the application holding that the prisoner's remedy was to proceed by writ of error. Jervis, C.J., said:—

> "Failing that remedy, the party cannot question the truth of the record upon a *habeas corpus*. This does not leave the the party wholly without redress; he may obtain it from the prerogative of the Crown. He may make application to the Secretary of State. Possibly that course has already been resorted to without success (Hodgson intimated that this was the fact). I am clearly of opinion that this application is as groundless as it is unprecedented."

I am satisfied that proceedings under section 363 do not apply where the applicant is detained under an order of a judge of the Supreme Court. The application is, therefore, dismissed. I make no order as to costs.

[ORIGINAL CIVIL JURISDICTION]

BURTON, J.

September 6, 1930.

K.A.L.R.M. KARUPPAN CHETTIAR...Plaintiff

vs.

SUBRAMANIAM CHETTIAR
THE OFFICIAL ADMINISTRATOR, F.M.S.
PALANIAPPA CHETTIAR
MUTHUKARUPPAN CHETTIAR } **Defendants**

[PERAK CIVIL SUIT No. 370 of 1930]

Probate and Administration Enactment 1920, Section 30 — Construction — Powers of Official Administrator.

By the true construction of Section 30 of the Probate and Administration Enactment 1920, the official administrator is merely placed in the position of a receiver of the intestate's estate pending the grant of letters of administration, and he cannot be sued by virtue of this section alone.

S. H. Lewis for Plaintiff.

S. Seenivasagam for Defendant No. 2.

BURTON, J.—This action is a partition action, and it is necessary that all parties should be before the Court. Ramasamy Chetty is however dead and no one has been appointed his representative. The plaintiff has therefore sued the Official Administrator as "the person in whom is now vested the property of V. R. M. L. Ramasamy Chettiar deceased lately carrying on business in the Federated Malay States under the style of L. N." The plaintiff relies on Section 30 of the Probate and Administration Enactment 1920.—

> "From and after the decease of persons dying intestate and until letters of administration shall be granted in respect of their estates and effects, the estates and effects which were of such deceased persons shall be vested in the Official Administrator."

This section corresponds with section 19 of the Court of Probate Act, 1858 (21 and 22 Vict. Cap. 95) which vests the property in the Judge of the Court of Probate.

I do not think that Section 30 can be interpreted to mean that the Official Administrator can be sued in respect of an intestate estate without more. In *Chan Kit San* v. *Ho Fung Hang*, (1902) A.C. 257, the Privy Council held that the effect of the corresponding section in a Hong Kong Ordinance was to put the Official Administrator in the position of a Receiver of the intestate's estate pending the grant of letters, but without power to sue in respect thereof. I think it is clear too that he cannot be sued by virtue of this section. The section does not give him the power of an administrator and he could not administer an estate vested in him under this section without further order. If it were otherwise section 29 would be largely superfluous. I think therefore that the Official Administrator is wrongly joined and I order that he be dismissed from the action, with costs.

[ORIGINAL CIVIL JURISDICTION]

MUDIE, J.

October 4, 1930.

P. L. A. L. N. ALAGAPPA CHETTY.....Plaintiff

vs.

BAN JOO LEE & CO.
LI KIM CHUAN } **.....Defendants**

[NEGRI SEMBILAN CIVIL SUIT No. 224 of 1929]

Limitation Enactment 1896, Second Schedule Art. 77—"Other relief" in consequence of fraud.

Article 77 in the second schedule of the Limitation Enactment is wide enough to include an action for damages for deceit. The "other relief" referred to in that article need not be of the same kind, as "setting